

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**UNITED STATES OF AMERICA  
ex rel. JEFFREY D. MANN, *et al.*,**

**Relators,**

**vs.**

**Case No.: 2:18-cv-1192  
JUDGE GEORGE C. SMITH  
Magistrate Judge Deavers**

**JOHN KASICH, *et al.*,**

**Defendants.**

**ORDER**

On December 4, 2018, the United States Magistrate Judge issued an *Initial Screen Report and Recommendation*. (See Doc. 9). The above recommended that Relators' *qui tam* action under the False Claims Act ("FCA") be dismissed because they are proceeding *pro se*, without the assistance of counsel. The parties were advised of their right to object to the *Initial Screen Report and Recommendation*. This matter is now before the Court on Relators' Objections to the *Initial Screen Report and Recommendation and Order*. (See Doc. 20). The Court will consider the matter *de novo*. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3).

In Relators' Objections, they argue that the Magistrate Judge erred by concluding that the *pro se* relators could not represent the United States in a *qui tam* action and then dismissing the case. Relators argue that there are "obligations inbetween." Specifically, Relators argue that this action may only be dismissed if the United States Attorney General gives written consent to the dismissal. Additionally, Relators assert that they are attempting to retain counsel and seem to be requesting additional time to do so.

The Court has carefully considered Petitioner's arguments and his objections; however, despite the objections raised by Relators, this case has not progressed to the stage of the proceedings that justifies written consent to dismissal by the United States. This matter is only at the initial screen phase, Defendants have not even been served. Therefore, there is nothing requiring consent by the United States before proceeding further. Further, Relators initiated this case over six months ago, which is plenty of time to retain counsel. Therefore, no additional time will be permitted to attempt to retain counsel.

Therefore, the Court agrees with the reasoning set forth by the Magistrate Judge in her Initial Screen Report and Recommendation that Relators cannot maintain this action *pro se*. *See, e.g., Jones v. Jindal*, No. 10–7124, 2011 WL 588062, at \*1 (D.C. Cir. Feb. 10, 2011) (per curiam) (“The district court properly dismissed appellant’s complaint because a *pro se* plaintiff may not file a *qui tam* action pursuant to the False Claims Act, 31 U.S.C. § 3729 *et seq.*”); *Phanvongkham v. Moultrie*, No. 1:16-cv-1032, 2017 WL 1353521, at \*3 (E.D. Cal. Apr. 12, 2017) (recommending on initial screen under 28 U.S.C. § 1915 that action be dismissed because, *inter alia*, relator is unable to prosecute the case on “unable to prosecute that case on a *pro se* basis”).

Therefore, for the reasons stated in detail in the *Initial Screen Report and Recommendation*, this Court finds that Relators’ objections are without merit and are hereby **OVERRULED**. The *Report and Recommendation*, Document 9, is **ADOPTED** and **AFFIRMED**. Relators’ case is hereby dismissed. Additionally, pursuant to 28 U.S.C. §1915(a)(3), an appeal of this Order would not be taken in good faith and therefore any request of Relators for leave to appeal *in forma pauperis* is hereby denied.

The Clerk shall remove Documents 9, 16, and 20 from the Court's pending motions list.

The Clerk shall close this case.

**IT IS SO ORDERED.**

*/s/ George C. Smith*  
**GEORGE C. SMITH, JUDGE**  
**UNITED STATES DISTRICT COURT**